

FILED

DEC 29 2014

Clerk, U.S. District Court
District Of Montana
Billings

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff and Respondent,

vs.

JUSTIN ZACHARY FULTZ,

Defendant and Movant.

Cause No. CR 11-127-BLG-SPW
CV 13-153-BLG-SPW

ORDER DISMISSING § 2255
MOTION AND DENYING
CERTIFICATE OF APPEALABILITY

On December 6, 2013, Defendant/Movant Justin Zachary Fultz moved to reinstate his motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255. Fultz is a federal prisoner proceeding pro se.

On October 25, 2013, Fultz voluntarily withdrew his original motion. *See* Mot. § 2255 (Doc. 81); Notice (Doc. 90). Although he reinstated the motion, on September 29, 2014, the Court ordered him to state whether he intended to proceed with the re-filed § 2255 motion. Order (Doc. 113) at 2 ¶ 1. Fultz failed to respond to the Order.

As Fultz does not intend to proceed, the § 2255 motion is dismissed, and a certificate of appealability is denied.


Accordingly, IT IS HEREBY ORDERED as follows:

1. Fultz's second motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255 (Doc. 97) is DISMISSED.

2. A certificate of appealability is DENIED. The Clerk of Court shall immediately process the appeal if Fultz files a Notice of Appeal;

3. The Clerk of Court shall ensure that all pending motions in this case and in CV 13-153-BLG-SPW are terminated and shall close the civil file by entering a judgment of dismissal.

DATED this 29th day of December, 2014.


SUSAN P. WATTERS
United States District Judge